



April 12, 2023

Norton Rose Fulbright US LLP
1301 Avenue of the Americas
New York, New York 10019-6022
United States

VIA ECF

The Honorable John G. Koeltl
United States District Court for the
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street
New York, NY 10007

Matthew Niss
Associate
Direct line +1 212 318 3268
matthew.niss@nortonrosefulbright.com

Tel +1 212 318 3000
Fax +1 212 318 3400
nortonrosefulbright.com

Re: Bionpharma Inc. v. CoreRx, Inc., Case No. 1:21-cv-10656-JGK-VF (S.D.N.Y.)

Dear Judge Koeltl:

We are counsel for Defendant CoreRx, Inc. ("CoreRx") in the above-referenced case. We write pursuant to Your Honor's Individual Practice Rule VI.A.2, to explain the need for certain confidential information in Plaintiff Bionpharma Inc.'s ("Bionpharma") Proposed Findings of Fact and Conclusions of Law (Dkt. 220) to remain under seal.

As explained in the declaration of Ajay Damani filed with this letter, Bionpharma's Proposed Findings of Fact and Conclusions of Law contains confidential CoreRx pricing information for various pharmaceutical products. (See Dkt. 220, ¶¶ 9, 26, 27, 30, 31, 74, 92, 139, 168, 169, 170, 171.) Bionpharma's Proposed Findings of Fact and Conclusions of Law contains CoreRx's cost information and information concerning the manner in which CoreRx decides to price its products that could harm CoreRx if the information were publicly available to CoreRx's competitors and customers. (See Dkt. 220, ¶¶ 76, 78, 82, 83-88, 92, 94, 99, 100, 101, 103-107, 113-116, 133-137, 146-149, 151.)

Information such as revenues, costs, and pricing information is the type of confidential information that should be sealed. See *Kewazinga Corp. v. Microsoft Corp.*, No. 1:18-cv-4500-GHW, 2021 WL 1222122, at *3 (S.D.N.Y. Mar. 31, 2021) ("Courts commonly find that documents that contain ... revenue information, pricing information, and the like satisfy the sealing standard.") (quoting *Rensselaer Polytechnic Inst. v. Amazon.com, Inc.*, 1:18-cv-00549 (BKS/CFH), 2019 WL 2918026, at *2 (N.D.N.Y. June 18, 2019)); *Playtex Prods., LLC v. Munchkin, Inc.*, No. 14-cv-1308, 2016 WL 1276450, at *11-12 (S.D.N.Y. Mar. 29, 2016) (granting request to redact portions of summary judgment brief which referenced "confidential and sensitive business information, including sales and costs information"); *GoSMiLE, Inc. v. Dr. Jonathan Levine, D.M.D. P.C.*, 769 F. Supp. 2d 630, 649-50 (S.D.N.Y. 2011) (allowing sealing of documents "contain[ing] highly proprietary material concerning the defendants' ... costs and budgeting").

Counsel for Biopharma informed us today that Bionpharma does not object to this request.

Norton Rose Fulbright US LLP is a limited liability partnership registered under the laws of Texas.

Norton Rose Fulbright US LLP, Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright Canada LLP and Norton Rose Fulbright South Africa Inc are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients. Details of each entity, with certain regulatory information, are available at nortonrosefulbright.com.

^NORTON ROSE FULBRIGHT

April 12, 2023
Page 2

CoreRx respectfully requests that the Court enter an order maintaining under seal those portions of Bionpharma's Proposed Findings of Fact and Conclusions of Law that have been redacted in the publicly filed version.

Respectfully submitted,

/s/ Matthew Niss

Matthew Niss

APPLICATION GRANTED
SO ORDERED



John G. Koeltl, U.S.D.J.

4/13/23